

REQUEST FOR COMMISSION ACTION

OG-07-02-210

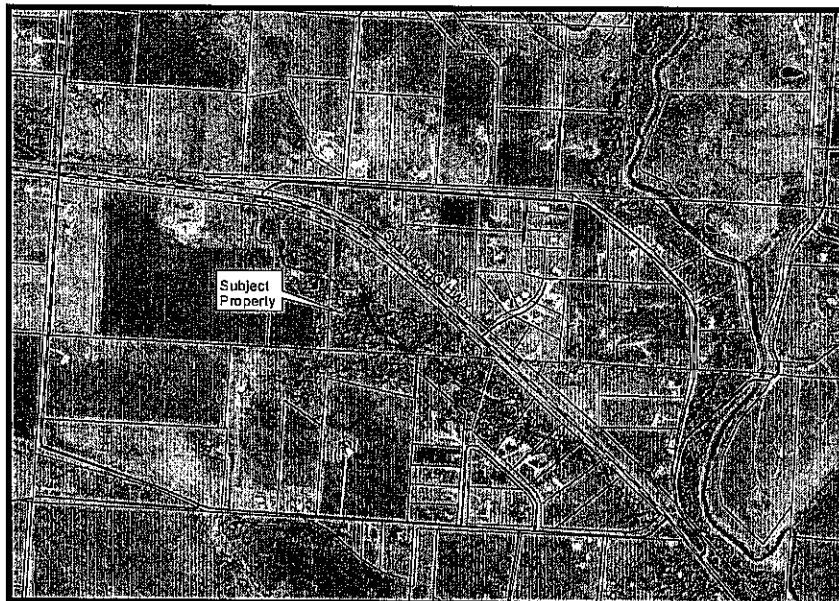
Site Visit: February 22, 2007 @ 3:00 p.m.
Meeting: February 27, 2007 @ 4:00 p.m.
Request: To act on the Gill Expedited Minor Subdivision

I. ACTION REQUESTED

This is a request from Gary & Lora Gill, represented by Shepherd Surveying, to create the **Gill Expedited Minor Subdivision**.

II. BACKGROUND

The Gill expedited minor subdivision is a two-lot subdivision of 13.41 acres located southeast of Hamilton. There is currently one residential structure on the property. Both lots are proposed for single family residential use. Skalkaho Creek traverses the southern portion of the property. The applicant has proposed a 50-foot no build/alteration zone on either side of the creek. A floodplain analysis was completed and approved by the Ravalli County Floodplain Administrator, with a recommendation of a 100-foot restricted zone from both sides of the modeled/calculated floodplain.



Map 1: Location Map

(Source Data: Ravalli County GIS Department)

Staff recommends conditional approval of the subdivision proposal.

III. PLANNING STAFF'S RECOMMENDATION

That the Gill Expedited Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

IV. PLANNING STAFF'S RECOMMENDED CONDITIONS

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Skalkaho Highway frontage of this subdivision, excepting the approved approaches for Lots 1 and 2. Each lot within this subdivision must use an approved approach. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. *(Effects on Local Services)*

Notification of No-Build/Alteration Zone. Within this subdivision there is a no-build/alteration zone located on Lots 1 and 2, as shown on the plat, to restrict building in riparian areas south of Skalkaho Creek. No new structure, with the exception of fences, may be constructed in this area. No new utilities, with the exception of wells, may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through this area are not permitted. *(Effects on Natural Environment, Wildlife & Wildlife Habitat, Public Health & Safety)*

Notification of Restricted Zone. Within this subdivision there is a restricted zone located on Lots 1 and 2, as shown on the plat, to restrict building in areas within 100 feet of the modeled/calculated 100-year floodplain of Skalkaho Creek. No new structure, with the exception of fences, may be constructed in this area. In addition to fences, Lot 2 may also construct an irrigation pumphouse with associated irrigation infrastructure within the restricted area. No new utilities, with the exception of wells, may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. The footprint of the existing home on Lot 1 shall not be expanded. Roads, trails, and utility crossings through this area are not permitted. *(Effects on Natural Environment, Wildlife & Wildlife Habitat, Public Health & Safety)*

Notification of "Very Limited" Soils. Within this subdivision there are areas of the property identified by the Natural Resources Conservation Service (NRCS) as potentially having soils rated as "very limited" for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat. Descriptions of the severe soils in question are included as exhibits to this document [the subdivider shall include the exhibits as attachments]. *(Effects on Public Health & Safety)*

Notification of Proximity to Skalkaho Creek. Skalkaho Creek traverses the southern portion of this property. There is an inherent hazard associated with creeks, due to potential soil erosion, flooding and movement of the stream channel. It is recommended that property

owners of this subdivision obtain flood insurance. *(Effects on Natural Environment and Public Health & Safety)*

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Waiver of Protest to Creation of RSID/SID. Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

Living with Wildlife. (See Exhibit A-2 for required provisions.) *(Effects on Natural Environment, Wildlife & Wildlife Habitat, and Public Health & Safety)*

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light must be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. *(Effects on Public Health & Safety)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. *(Effects on Public Health & Safety)*

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. *(Effects on Natural Environment)*

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Hamilton Rural Fire District has adopted Fire Protection Standards which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. *(Effects on Local Services and Public Health & Safety)*

Access Requirements for Lots within this Subdivision. The Hamilton Rural Fire District has adopted the Fire Protection Standards. All roads, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information. *(Effects on Local Services and Public Health & Safety)*

Building Standards. As a condition of approval recommended by the Hamilton Rural Fire District, the houses within this subdivision are required to be built to International Residential

Building Code (IRBC) building standards. Further, the Hamilton Rural Fire District requests that the commercial buildings be constructed to meet state building code requirements. For more information, contact the Hamilton Rural Fire District at PO Box 1994, Hamilton, MT 59840. *(Effects on Local Services and Public Health & Safety)*

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). *(Effects on Natural Environment)*

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for a County-issued address for Lot 2 within this subdivision. *(Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Hamilton Rural Fire District stating that they have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Effects on Local Services and Public Health & Safety)*
6. The subdivider shall submit a letter or receipt from the Hamilton School District stating that they have received (an amount to be determined by the Board of County Commissioners)-per-lot contribution prior to final plat approval. *(Effects on Local Services)*
7. The final plat shall show a no-ingress/egress zone along the Skalkaho Highway frontage of the subdivision, excepting both approaches, as approved by the Montana Department of Transportation. *(Effects on Local Services and Public Health & Safety)*
8. The final plat shall show the extent and boundary of the modeled/calculated 100-year floodplain of Skalkaho Creek, as shown on the preliminary plat. *(Effects on the Natural Environment, Wildlife & Wildlife Habitat, and Public Health & Safety)*
9. A restricted zone extending horizontally 100 feet from the extent and boundary of the modeled/calculated 100-year floodplain of Skalkaho Creek shall be shown on the final plat. *(Effects on the Natural Environment, Wildlife & Wildlife Habitat, and Public Health & Safety)*
10. The entire portion of the property located south of Skalkaho Creek shall be labeled as a no-build/alteration zone, as shown on the preliminary plat. *(Effects on the Natural Environment, Wildlife & Wildlife Habitat, and Public Health & Safety)*

11. The final plat submittal shall include a letter from Daly Ditches stating they approved the proposed irrigation plan. (*Effects on Agricultural Water User Facilities*)

REMAINING ISSUES:	None
FISCAL IMPACT:	No extraordinary fiscal impacts noted.
ATTACHMENTS:	Staff Report with attachments
STAFF:	Tristan Riddell
DATE:	February 23, 2007

**GILL SUBDIVISION
TWO-LOT EXPEDITED MINOR**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Tristan Riddell

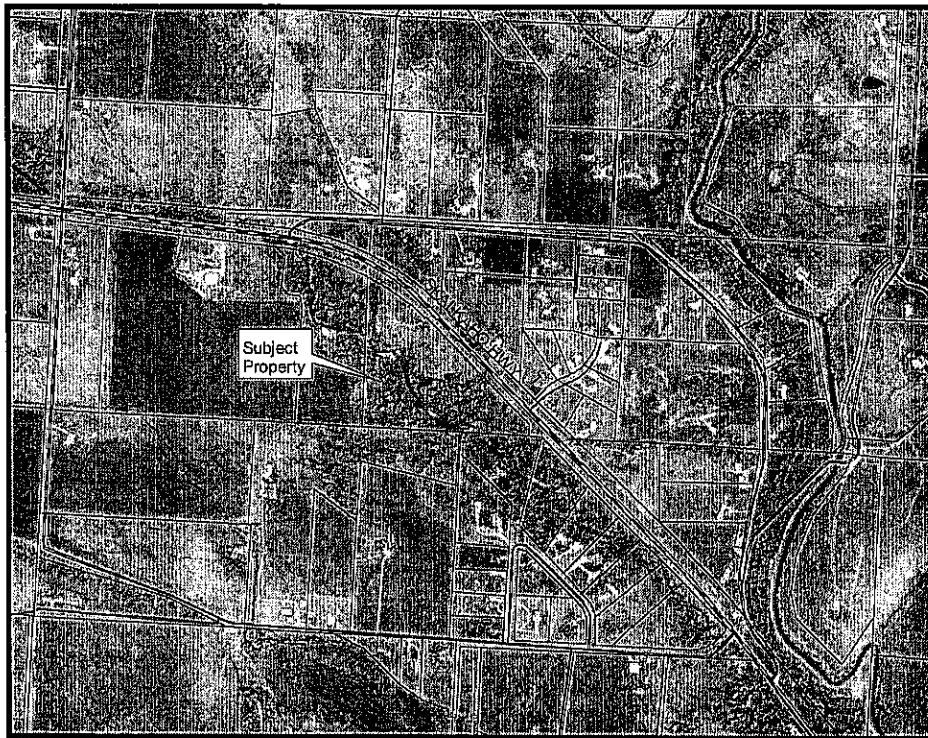
**REVIEWED/
APPROVED BY:** Renee Van Hoven

**PUBLIC HEARINGS/
MEETINGS:** BCC Public Meeting: 4:00 p.m. February 27, 2007
Deadline for BCC action (35 working days): April 18, 2007

SUBDIVIDER/OWNER: Gary & Lora Gill
749 Skalkaho Highway
Hamilton, MT 59840

REPRESENTATIVE: Leonard Shepherd
320 Adirondac
Hamilton, MT 59840

LOCATION OF REQUEST: The property is located southeast of Hamilton off Skalkaho Highway
(See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

Parcel A of COS 4547 located in the N ½ of Section 16, T5N, R20W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was determined complete on January 30, 2007. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-5 of the staff report.

LEGAL NOTIFICATION:

Notice of the project was posted on the property and adjacent property owners were notified by certified mail postmarked February 1, 2007. A public comment was received on February 20, 2007 and is attached as Exhibit B.

**DEVELOPMENT
PATTERN:**

Subject property	Residential and Vacant Rural
North	Residential
South	Agriculture
East	Residential
West	Agriculture

INTRODUCTION

The Gill expedited minor subdivision is a two-lot subdivision of 13.41 acres located southeast of Hamilton. There is currently one residential structure on the property. Both lots are proposed for single family residential use. Skalkaho Creek traverses the southern portion of the property. The applicant has proposed a 50-foot no build/alteration zone on either side of the creek. A floodplain analysis was completed and approved by the Ravalli County Floodplain Administrator, with a recommendation of a 100-foot restricted zone from both sides of the modeled/calculated floodplain.

Staff recommends conditional approval of the subdivision proposal.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

FEBRUARY 27, 2007

GILL SUBDIVISION
TWO-LOT EXPEDITED MINOR SUBDIVISION

RECOMMENDED MOTION

That the Gill Expedited Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Skalkaho Highway frontage of this subdivision, excepting the approved approaches for Lots 1 and 2. Each lot within this subdivision must use an approved approach. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. *(Effects on Local Services)*

Notification of No-Build/Alteration Zone. Within this subdivision there is a no-build/alteration zone located on Lots 1 and 2, as shown on the plat, to restrict building in riparian areas south of Skalkaho Creek. No new structure, with the exception of fences, may be constructed in this area. No new utilities, with the exception of wells, may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through this area are not permitted. *(Effects on Natural Environment, Wildlife & Wildlife Habitat, Public Health & Safety)*

Notification of Restricted Zone. Within this subdivision there is a restricted zone located on Lots 1 and 2, as shown on the plat, to restrict building in areas within 100 feet of the modeled/calculated 100-year floodplain of Skalkaho Creek. No new structure, with the exception of fences, may be constructed in this area. In addition to fences, Lot 2 may also construct an irrigation pumphouse with associated irrigation infrastructure within the restricted area. No new utilities, with the exception of wells, may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. The footprint of the existing home on Lot 1 shall not be expanded. Roads, trails, and utility crossings through this area are not permitted. *(Effects on Natural Environment, Wildlife & Wildlife Habitat, Public Health & Safety)*

Notification of "Very Limited" Soils. Within this subdivision there are areas of the property identified by the Natural Resources Conservation Service (NRCS) as potentially having soils rated as "very limited" for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat. Descriptions of the severe soils in question are included as exhibits to this document [the subdivider shall include the exhibits as attachments]. *(Effects on Public Health & Safety)*

Notification of Proximity to Skalkaho Creek. Skalkaho Creek traverses the southern portion of this property. There is an inherent hazard associated with creeks, due to potential soil erosion, flooding and movement of the stream channel. It is recommended that property owners of this subdivision obtain flood insurance. (*Effects on Natural Environment and Public Health & Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Waiver of Protest to Creation of RSID/SID. Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. (*Effects on Local Services*)

Living with Wildlife. (See Exhibit A-2 for required provisions.) (*Effects on Natural Environment, Wildlife & Wildlife Habitat, and Public Health & Safety*)

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light must be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. (*Effects on Public Health & Safety*)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. (*Effects on Public Health & Safety*)

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. (*Effects on Natural Environment*)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Hamilton Rural Fire District has adopted Fire Protection Standards which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (*Effects on Local Services and Public Health & Safety*)

Access Requirements for Lots within this Subdivision. The Hamilton Rural Fire District has adopted the Fire Protection Standards. All roads, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information. (*Effects on Local Services and Public Health & Safety*)

Building Standards. As a condition of approval recommended by the Hamilton Rural Fire District, the houses within this subdivision are required to be built to International Residential Building Code (IRBC) building standards. Further, the Hamilton Rural Fire District requests that the commercial buildings be constructed to meet state building code requirements. For more information, contact the Hamilton Rural Fire District at PO Box 1994, Hamilton, MT 59840. *(Effects on Local Services and Public Health & Safety)*

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). *(Effects on Natural Environment)*

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for a County-issued address for Lot 2 within this subdivision. *(Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Hamilton Rural Fire District stating that they have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Effects on Local Services and Public Health & Safety)*
6. The subdivider shall submit a letter or receipt from the Hamilton School District stating that they have received (an amount to be determined by the Board of County Commissioners)-per-lot contribution prior to final plat approval. *(Effects on Local Services)*
7. The final plat shall show a no-ingress/egress zone along the Skalkaho Highway frontage of the subdivision, excepting both approaches, as approved by the Montana Department of Transportation. *(Effects on Local Services and Public Health & Safety)*
8. The final plat shall show the extent and boundary of the modeled/calculated 100-year floodplain of Skalkaho Creek, as shown on the preliminary plat. *(Effects on the Natural Environment, Wildlife & Wildlife Habitat, and Public Health & Safety)*
9. A restricted zone extending horizontally 100 feet from the extent and boundary of the modeled/calculated 100-year floodplain of Skalkaho Creek shall be shown on the final plat. *(Effects on the Natural Environment, Wildlife & Wildlife Habitat, and Public Health & Safety)*

10. The entire portion of the property located south of Skalkaho Creek shall be labeled as a no-build/alteration zone, as shown on the preliminary plat. (*Effects on the Natural Environment, Wildlife & Wildlife Habitat, and Public Health & Safety*)
11. The final plat submittal shall include a letter from Daly Ditches stating they approved the proposed irrigation plan. (*Effects on Agricultural Water User Facilities*)

SUBDIVISION REPORT

COMPLIANCE WITH PRIMARY SUBDIVISION REVIEW CRITERIA

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed expedited minor subdivision on 13.41 acres will result in two lots. The property is located approximately 5.0 miles southeast of the City of Hamilton off Skalkaho Highway.
2. The property is adjacent to other residential properties, but there may be agricultural activities in the vicinity. To mitigate impacts on agriculture, a notification of proximity to agricultural operations shall be included in the notifications document. *(Condition 1)*
3. According to the application, the property is not currently being used for agricultural purposes.
4. There are no soils on the property that are listed as Prime Farmland Soils or Farmland of Statewide Importance by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS).

Conclusions of Law:

1. With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on surrounding agriculture will be reduced.
2. The creation of these lots will not take Prime Farmland or Farmland of Statewide Importance out of production.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

1. The application states that 13.21 irrigated acres of water are provided to the property through Daly Ditches. Skalkaho Creek traverses the southern portion of the property and will provide each lot with water. There is an existing pumphouse on proposed Lot 1.
2. To mitigate impacts on the natural environment and public health and safety, the subdivider shall place a no-build/alteration zone south of Skalkaho Creek and a restricted zone within 100 feet north of the floodplain boundary. To mitigate impacts on agricultural water user facilities, the restricted zone shall allow for a pumphouse and associated irrigation facilities on Lot 2.
3. To mitigate impacts on agricultural water user facilities, prior to final plat approval, the subdivider shall submit a letter from Daly Ditches approving the proposed irrigation plan. *(Condition 12)*

Conclusion of Law:

With the mitigating condition of approval, impacts on agricultural water user facilities will be reduced.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

1. The proposed subdivision is accessed off Skalkaho Highway, a state maintained road.
2. The subdivider is proposing to use existing approved accesses off Skalkaho Highway to serve the lots. Both lots are proposed as single family residentialans according to the application, the subdivision will generate 8 additional trips per day to Skalkaho Highway.
3. Section 3-3-4(c)(18) of the Ravalli County Subdivision Regulations requires the subdivider to submit an approach permit from MDT for the proposed access to serve Lot 2 prior to final plat approval. The subdivider has included an approved approach permit from MDT in the application packet.
4. Section 5-2-2(c)(5) of the Ravalli County Subdivision Regulations requires a common driveway to serve the two lots unless the individual driveways could be more than 600 feet apart. The

- distance between the existing driveway on Lot 1 and the approved approach on Lot 2 is approximately 600 feet in length.
5. With this subdivision, it is estimated that approximately 0.5 school-aged children will be added to the Hamilton School District, assuming an average of 0.5 children per single family residence (2000 Census).
 6. To mitigate impacts on local services, the subdivider shall apply for a County-issued address for Lot 2. A provision requiring property owners to post a County-issued address on the driveway of Lot 2 shall be in the covenants. Lot 1 already has an address posted on its driveway. (*Conditions 2 and 4*)
 7. To mitigate further impacts on Skalkaho Highway, the final plat shall show a no-ingress/egress zone along the Skalkaho Highway frontage of the subdivision, excepting the existing access to proposed Lot 1 and the Montana Department of Transportation (MDOT) approved approach to serve proposed Lot 2. A notification of this limitation of access shall be included in the notifications document. (*Conditions 1 and 7*)
 8. To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (*Conditions 2 and 3*)
 9. The Hamilton Rural Fire District has adopted the Fire Protection Standards. In a letter dated March 16, 2006, the Hamilton Rural Fire District states that they approve of the proposal on the conditions that the applicant meet both the adopted Fire Protection Standards and IRBC building standards. (*Exhibit A-5*) They recommend that each home within this subdivision be built to IRBC building standards, post County-issued addresses at the intersection of the driveways leading to the primary residence, construct all accesses to meet an unobstructed travel width of 20' and vertical clearance of 13'6", and that each commercial unit within this subdivision be built to meet state building code requirements. (*Condition 2*)
 10. To further mitigate impacts on local services, the subdivider shall meet the water supply requirements for the Hamilton Rural Fire District, which is a 1,000 gallon per minute water supply or a 2,500 gallon per lot water storage. Alternatively, the subdivider can contribute \$500 per lot and provide a letter from the Hamilton Rural Fire District that the contribution has been made prior to final plat approval. (*Condition 5*)
 11. The subdividers stated they will make a \$250 contribution to the School District for the newly created lot. No comment has been received from the Hamilton School District. To mitigate impacts of the subdivision on the School District, the subdivider shall contribute (an amount to be determined by the Board of County Commissioners in consultation with the subdivider) per residential lot to the Hamilton School District. (*Condition 6*)
 12. Bitterroot Disposal provides service to this site.
 13. The Ravalli County Sheriff's Office provides law enforcement services to this area.
 14. Public services are adequate to serve this subdivision.
 15. Individual wells and wastewater treatment systems are proposed to serve the lots. (*Effects on Natural Environment*)

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

1. To mitigate air pollution resulting from home heating emissions, the protective covenants filed with the final plat shall state that the primary heat source for any newly constructed residences must be at least 75% efficient. (*Condition 2*)
2. Individual wells and wastewater treatment systems are proposed to serve lots within the subdivision. The Ravalli County Environmental Health Department provided documentation

indicating that they have received adequate information for local subdivision review to occur. (*Exhibit A-4*)

3. A Certificate of Subdivision Plat Approval from Montana Department of Environmental Quality (DEQ) is required to be submitted with the final plat (Section 3-3-4(c)(13).
4. Skalkaho Creek traverses the southern portion of the property. The significant amount of wetlands and riparian areas associated with this feature most likely provide wildlife habitat. A letter from Montana Fish, Wildlife, and Parks (FWP) recommends that the Living with Wildlife provisions and *Riparian Covenants* be included with the covenants for this subdivision. The letter also recommends that a 100-foot no-build zone extending on both sides of the ordinary high water mark of Skalkaho Creek be shown on the final plat. (*Exhibit A-3*) (*Condition 2*)
5. A floodplain analysis was completed for Skalkaho Creek and was approved by the Ravalli County Floodplain Administrator on December 8, 2006 (*Exhibit A-1*). The subdivider proposed a no-build/alteration zone to extend 50 feet to the north of Skalkaho Creek. Within amended comments from the Floodplain Administrator (*Exhibit A-2*), a 100-foot restricted zone is recommended from the location of the modeled/calculated 100-year floodplain, as shown on the preliminary plat. To mitigate impacts on the natural environment, the subdivider shall do the following:
 1. The final plat shall show the extent and boundary of the modeled/calculated 100-year floodplain of Skalkaho Creek, as shown on the preliminary plat. (*Condition 9*)
 2. A restricted zone extending horizontally 100 feet from the extent and boundary of the modeled/calculated 100-year floodplain of Skalkaho Creek shall be shown on the final plat. (*Condition 10*)
 3. A notification of the restricted zone and a reduced copy of the final plat showing the locations of the restricted zone shall be included in the notifications document and filed with the final plat. (*Condition 1*)
 4. A notification of the proximity to Skalkaho Creek shall also be included in the notifications document and filed with the final plat. (*Condition 1*)
6. The preliminary plat shows potential wetlands in a riparian area on the property south of Skalkaho Creek. This riparian area shall been identified as a no-build/alteration zone on the final plat, as shown on the preliminary plat. In order to mitigate impacts on the natural environment, notification of the no-build/alteration zone shall be included in the notifications document and the no-build/alteration zone placed on the final plat. (*Conditions 1 and 11*)
7. A noxious weed and vegetation control plan is required to be filed with the final plat for ground disturbance associated with a subdivision. According to MCA 7-22-2152, any person proposing a development that requires State or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the Weed District at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the Weed District for approval. To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (*Condition 2*)

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

1. The significant amount of wetlands and riparian areas associated with Skalkaho Creek most likely provide wildlife habitat. A letter from Montana Fish, Wildlife, and Parks (FWP) recommends that the Living with Wildlife provisions and *Riparian Covenants* be included with the covenants for this subdivision. The letter also recommends that a 100-foot no-build zone extending on both sides of the ordinary high water mark of Skalkaho Creek be shown on the final plat. (*Exhibit A-3*) (*Condition 2*)

2. The property is approximately 5.0 miles southeast of Hamilton and is adjacent to development that is similar in density. (*Map 1*)
3. In a letter dated December 8, 2006 (*Exhibit A-1*), the Ravalli County Floodplain Administrator recommended that the subdivider label an area 100 feet north from the modeled/calculated 100-year floodplain as a no-build/alteration zone to protect Skalkaho Creek and associated riparian areas. In a follow up email (*Exhibit A-2*), the recommendation was amended to state a 100-foot restricted zone rather than a no-build/alteration zone. As a requirement of final plat approval, the area extending horizontally 100 feet north from the modeled/calculated 100-year floodplain shall be labeled as a restricted zone. A pumphouse and associated irrigation facilities will be allowed to serve Lot 2 (See Effects on Agricultural Water User Facilities). The entire portion of the property south of the creek shall be labeled as a no-build/alteration zone. A no-build/alteration zone is defined in the Ravalli County Subdivision Regulations, recorded November 30, 2006, as an area in which no building or structure may be constructed or otherwise placed and the vegetation is retained in its natural condition. In addition to being shown on the final plat, notifications of the restricted and no-build/alteration zones shall be included in the notifications document filed with the final plat. (*Conditions 1, 9, 10, and 11*)

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

1. The proposed subdivision is located within the Hamilton Rural Fire District. Conditions 2 and 5 address impacts to the Fire District.
2. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision requiring full cut-off lighting with the exception of flag poles. (*Condition 2*)
3. There is a prevalence of radon in the County and to mitigate impacts on Public Health & Safety, the covenants shall include a statement regarding radon exposure. (*Condition 2*)
4. To mitigate impacts on Public Health & Safety, the subdivider shall apply for County-issued addresses and a provision requiring property owners to post County-issued addresses at their driveways shall be in the covenants. (*Conditions 2 and 4*)
5. The Ravalli County Sheriff's Office provides services to this subdivision.
6. With the conditions and requirements of final plat approval, access to the subdivision will be adequate for Public Health & Safety. (*Effects on Local Services and Conditions 1, 2, 7, and 8*)
7. The preliminary plat and soils map indicate that the subdivision may have soils rated as "very limited" for road and building construction. To educate property owners and to mitigate potential impacts of this subdivision on Public Health & Safety, a notification of the potential for "very limited" soils shall be included in the notifications document filed with the final plat. A reduced plat showing the approximate locations of soils rated as "very limited" for roads and building construction and descriptions of the "very limited" soils in question shall be attached to the notifications document as an exhibit. (*Condition 1*)
8. Individual wells and wastewater treatment systems are proposed for lots within this subdivision. (*Natural Environment*)
9. To mitigate impacts of Public Health & Safety, a notification of proximity to Skalkaho Creek shall be included in the notifications document. (*Condition 1*)
10. To mitigate impacts on public health and safety, specifically Skalkaho Creek, a restricted zone and a no-build/alteration zone shall be shown on the final plat. The restricted zone shall extend horizontally 100 feet from the modeled/calculated 100-year floodplain, as shown on the preliminary plat, and a no-build/alteration zone shall be located on the entire portion of ground south of Skalkaho Creek. Notifications of the restricted zone and the no-build/alteration zone shall be included with the notifications document. (*Conditions 1, 9, 10, and 11*)

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

COMPLIANCE WITH:

1) THE SURVEY REQUIREMENTS PROVIDED FOR IN PART 4 OF M.C.A. 76-3.

Finding of Fact:

The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

This proposal meets the survey requirements, or conditions have been required to bring the proposal into compliance.

2) THE LOCAL SUBDIVISION REGULATIONS PROVIDED FOR IN PART 5 OF M.C.A. 76-3.

Finding of Fact:

Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

The subdivider has submitted a plan that complies with the requirements of local subdivision regulations, or conditions have been required that will bring the plan into compliance.

3) THE LOCAL SUBDIVISION REVIEW PROCEDURE PROVIDED FOR IN THE RAVALLI COUNTY SUBDIVISION REGULATIONS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in the Ravalli County Subdivision Regulations.
2. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such decision. The petition shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider; a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the unincorporated area of the county that can show a likelihood of material injury to the landowner's property or its value; a first class municipality if the subdivision is within three miles of its limits, a second class municipality if a subdivision is within two miles of its limits, or a third class municipality or town if the subdivision is within one mile of its limits. An aggrieved party means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

Conclusion of Law:

This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

CONSISTENCY WITH EXISTING ZONING AND COVENANTS

Findings of Fact:

1. There are existing covenants on the property. (*Application*) The proposal appears to be consistent with existing covenants.

2. The property is located within the South Shoshone Zoning District. The district standards allow a minimum lot size of 5 acres. The proposal meets this requirement.
3. Interim County-wide zoning applies to this subdivision, which limits the density of subdivisions to one dwelling unit per 2.0 acres.

Conclusions of Law:

This proposal appears to comply with existing zoning regulations and covenants.

PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:

1. The preliminary plat indicates that existing utility easements are located along Skalkaho Highway.
2. According to the application, the proposed subdivision will be served by NorthWestern Energy and Qwest Telephone. Utility companies have been notified of the proposed subdivision. No comments have been received to date.
3. Utility certificates are a requirement of final plat approval.
4. Utility easements are required to be shown on the final plat.

Conclusion of Law:

Utility services are available to the subdivision.

PROVISION OF LEGAL AND PHYSICAL ACCESS

Finding of Fact:

Physical and legal access for this subdivision is proposed via Skalkaho Highway. The lots will access off two individual driveways. (*Local Services*)

Conclusion of Law:

With the conditions of approval and requirements of final plat approval, the proposal meets physical and legal access requirements.

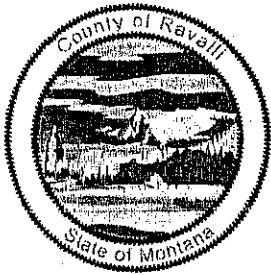


EXHIBIT A-1

Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840
Phone 406-375-6530
Fax 406-375-6531
planning@ravallicounty.mt.gov

OG-06-12-1283

December 8, 2006

John Horat
Bitterroot Engineering & Design
1180 Eastside Hwy
Corvallis, MT 59828

RE: Floodplain Analysis for Gill Subdivision, Skalkaho Creek
Parcel #817300, Geocode #1367-16-2-01-16-0000

Dear Mr. Horat,

We have completed our review of the floodplain analysis according to Section 3-2-13 of the Ravalli County Subdivision Regulations for the above proposed subdivision. After multiple discussions with Larry Schock of the Department of Natural Resources and Conservation (DNRC), we concur with his review of the HEC-RAS model and his suggestion that the model provides a "reasonable" representation of the 100-year floodplain for this reach of Skalkaho Creek within the proposed subdivision. Consequently, we recommend approval of the floodplain analysis for the Gill Subdivision and recommend the below conditions to mitigate impacts to public health and safety and the natural environment.

While the HEC-RAS model reasonably identifies the 100-year floodplain, it is apparent that a floodplain setback is necessary for this development according to the project description submitted with the model on September 28, 2006. In that letter, you indicated that the rip rap placed near the existing house "causes the creek to divert" in a different direction and that a new "bridge with rip rap is located about 100 feet west of the subdivision". In the letter you also state that "future erosion of the northern bank near the house could alter the creek channel and the location of the on-site 100 year floodplain" and that "bank stabilization may be required to preserve the integrity of the bank". Given the obvious instability of the banks of Skalkaho Creek and the requisite to protect property owners and mitigate future flood losses we recommend a 100 foot setback (no build/alteration zone) from both sides of the modeled/calculated 100-year floodplain, rather than the 50 foot setback proposed on the original preliminary plat (dated 11/20/2005). In several locations, the modeled floodplain exceeds the originally proposed 50 foot setback. The no build/alteration zone should also be inclusive of the modeled floodplain. A 100 foot setback would reduce the need for bank stabilization and ensure that any proposed development is reasonably safe from flooding since the model "does not take into account ice jams or other potential blockages" that are common to this channel.

Additionally, the extensive lowlands at the southwestern portion of the proposed subdivision should be delineated as a no build/alteration zone due to the sensitivity of the existing wetlands and riparian vegetation.

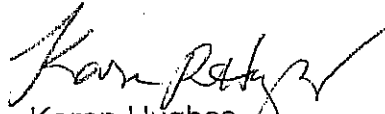
Although the proposed subdivision is not located in a FEMA mapped floodplain, it is strongly recommended that the property owners obtain flood insurance. (The opportunity to obtain discounted flood insurance is a privilege of the citizens of Ravalli County as standard homeowner's insurance policies do not cover flood damages.) As per the DNRC's comments, it is further recommended that all residential structures with the proposed subdivision be elevated so that the lowest floor (including mechanical equipment) is located two (2) feet above the 100-year base flood elevation.

If you have any questions, please feel free to contact our office.

Sincerely,



Laura Hendrix, CFM
Ravalli County Floodplain Administrator



Karen Hughes
Ravalli County Planning Director

Enclosures: Letter from John Horat, Bitterroot Engineering & Design, dated 9/28/2006
Reduced plat with recommended setbacks

Cc: Correspondence File - General
Tristan Riddell, Ravalli County Planner
Floodplain Waiver File

Bitterroot Engineering & Design, Inc.

1180 Eastside Hwy. Corvallis, MT 59828
(406) 961-5634 FAX (406) 961-5654

REVISED

To: Ravalli County Planning Department
From: John Horat, PE
Subject: Floodplain Analysis for Gill Subdivision
Date: 9/28/06

Skalkaho Creek passes through the proposed subdivision and splits lot 1 into two (2) distinct portions (See enclosed USGS Map.) The northern boundary of the subdivision is Skalkaho Highway. An existing house with out buildings is located on lot 1 and a residential build site is proposed for lot 2. There appears to be rip rap located about eighty (80) feet south and east of the existing house. This rip rap causes the creek to divert in a southerly direction. A recently constructed and permitted (310) bridge with rip rap is located about 100 feet west of the subdivision. No backwater from the constructed bridge is anticipated.

Five (5) cross sections were surveyed for this study, one at each of the boundaries, one at the center of the project and two (2) off site (See attached preliminary subdivision map.) The flow depths in Skalkaho Creek at the time of the survey were estimated to be less than 24". Based upon the anticipated 100 year flow, the 100 year flow is contained within the banks of Skalkaho Creek (See attached HEC-RAS Model). Calculations were performed by entering in data provided by Shepherd Surveying and calculations performed by the HEC RAS program. HEC RAS cross sections are attached along with the data on a computer disk. The model appears reasonable although some warning errors are displayed which is probably due to steep slope in the channel.

The 100 year flood event was taken from the Water-Resources Investigations Report 03-4308 prepared by the USGS in July 1992. The 100 year flow for Station No. 12346500 is 1,280 cfs for a drainage area of 87.8 square miles. This flow is 60 cfs higher than the previous Report No. 92-4048. The actual drainage area for the subject area is 112 square miles (See Appendix for reference materials.) The adjusted flow for the increase area is calculated at 1574 cfs ($q = (112/87.8)^{0.85} \times 1280$ cfs).

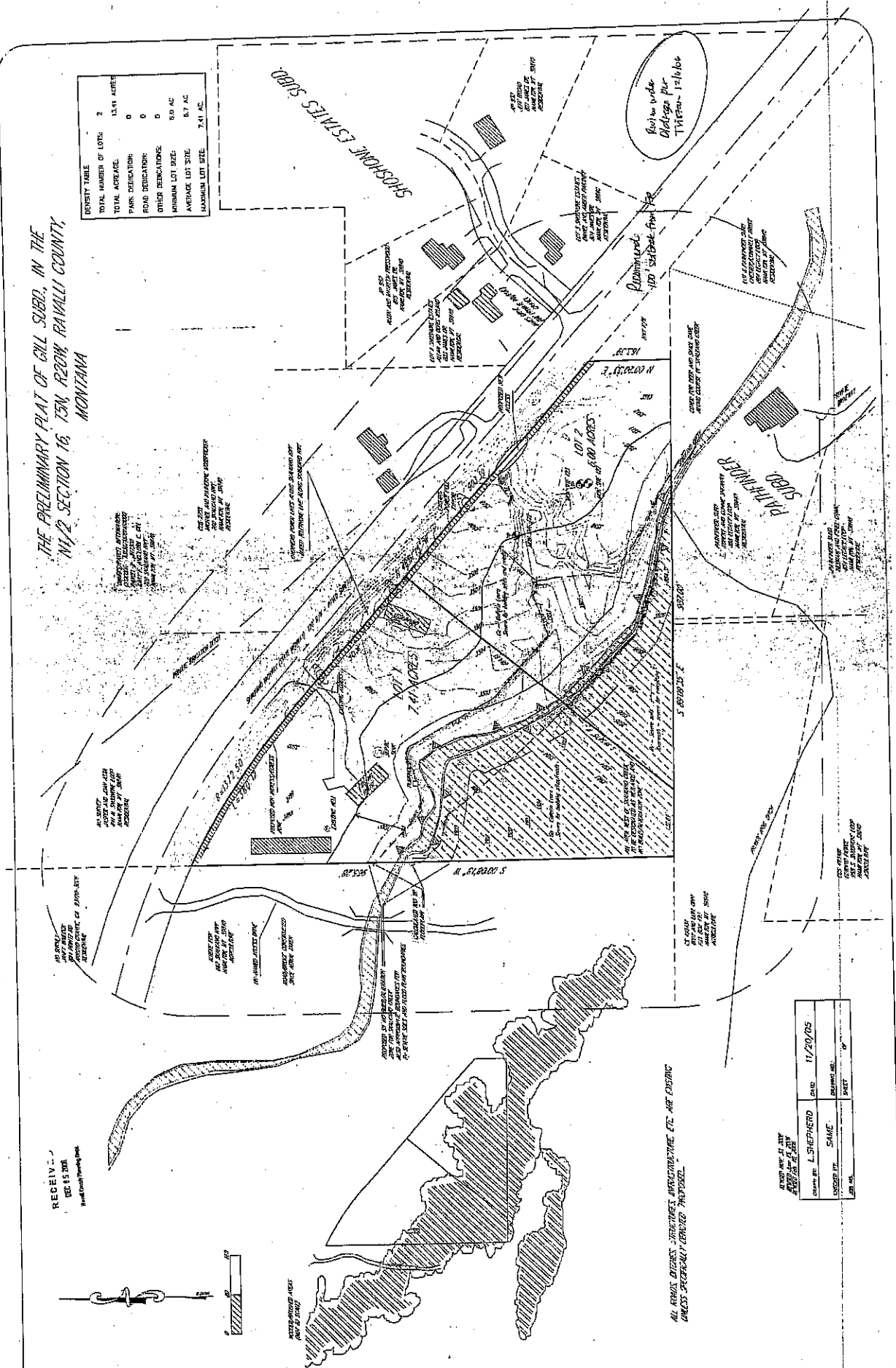
The stream channel is composed of sand, gravel and cobbles. The banks are composed of grasses and the area outside of the stream bank is composed of agricultural grasses. There is dead wood and brush outside of the stream banks.

As mentioned previously, future erosion of the northern bank near the house could alter the creek channel and the location of the on-site 100 year floodplain. Future bank stabilization may be required to preserve the integrity of the bank.

This study does not take into account ice jams or other potential blockages in the channel bed.

THE PRELIMINARY PLAT OF GILL SUBD., IN THE
NW 1/2 SECTION 16, T5N, R20W, RAVALLI COUNTY,
MONTANA

DENSITY TABLE	
TOTAL NUMBER OF LOTS	2
TOTAL ACREAGE	13.91 ACRES
PARK DEDICATION	0
ROAD DEDICATION	0
OTHER DEDICATIONS	0
MINIMUM LOT SIZE	8.0 AC
AVERAGE LOT SIZE	6.7 AC
MAXIMUM LOT SIZE	7.41 AC

[illegible]

SEARCHED <input checked="" type="checkbox"/> INDEXED <input checked="" type="checkbox"/>	DATE	11/20/05
SERIALIZED <input checked="" type="checkbox"/> FILED <input checked="" type="checkbox"/>	CHARGE BY	L. SHEPHERD
ENDORSED BY		SAME
DECLASS. AUTH.		
DATE		
BY		

Tristan Riddell

From: Laura Hendrix
Sent: Thursday, February 22, 2007 12:11 PM
To: Tristan Riddell
Cc: Laura Hendrix
Subject: RE: Language for GILL SUBDIVISION

Tristan,

The language proposed for the Restrictive Zone is sufficient to mitigate the impacts to the natural environment, public health and safety and wildlife and wildlife habitat. I feel that this Restrictive Zone will ensure that the existing residence and any proposed residential structures will be reasonably safe from flooding. Locating structures a reasonable distance away from the modeled 100-year floodplain reduces the need for future costly bank stabilization projects as the creek migrates within the floodplain. Please replace the "no build/alt zone" in my floodplain analysis recommendation with the below proposed language for a Restrictive Zone.

Thank you,

Laura Hendrix, CFM
Ravalli County Floodplain Administrator
215 S 4th St, Suite F
Hamilton, MT 59840
406-375-6530 phone
406-375-6531 fax
lhendrix@ravallicounty.mt.gov

From: Tristan Riddell
Sent: Wednesday, February 21, 2007 11:12 AM
To: Laura Hendrix
Subject: Language for GILL SUBDIVISION
Importance: High

Notification of Restrictive Zone. Within this subdivision there is a restrictive zone located on Lots 1 and 2, as shown on the plat, to restrict building in areas within 100 feet of the modeled/calculated 100-year floodplain of Skalkaho Creek. No new structure, with the exception of fences, may be constructed in this area. In addition to fences, the owner of Lot 2 may construct an irrigation pump house with associated irrigation equipment within the restricted area. No new utilities, with the exception of wells, may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. The footprint of the existing home on Lot 1 shall not be expanded. Roads, trails, and utility crossings through this area are not permitted. (*Effects on Natural Environment, Wildlife & Wildlife Habitat, Public Health & Safety*)

Your floodplain analysis recommendation calls for a 100-foot no-build/alteration zone. If you agree with the above language and feel that it can replace the language used for a no-build/alt zone without causing negative impacts to the natural environment, wildlife habitat, and public health & safety I would appreciate an email or letter stating your approval.

Thanks,

p.s. I need a response by the end of the week. The BCC meeting is scheduled for 2/27.



Montana Wildlife & Parks

EXHIBIT A-3

Region 2 Office
3201 Spurgin Road
Missoula, MT 59804-3099
406-542-5500
May 30, 2006

Leonard Shepherd
Shepherd Survey
320 Adirondac Ave.
Hamilton, MT 59840

Dear Mr. Shepherd:

Reference: Gill--Proposed minor (2 lots on 13.4 acres) subdivision, 4 miles SE of
Hamilton

We have reviewed the preliminary plat for this subdivision, and our comments follow.

Wildlife

This subdivision is located along Skalkaho Creek and its associated riparian areas, near where the creek comes out of the hills leading up into the Sapphire Mountains. In particular, wildlife such as white-tailed deer, fox, skunk, and magpie could be found in the area, as well as an occasional black bear and possible mountain lion. Numerous small mammal and bird species would also be found nearby. We believe there is an elevated probability of human/wildlife interactions at this location, particularly if residents do not pay attention to careful handling of garbage, storing attractants, pet control, etc. Therefore, we believe that "living with wildlife" issues should be conveyed as development covenants to future residents in this subdivision, in order to help them deal with and avoid potential wildlife issues. We have enclosed our recommended version of such covenants.

Skalkaho Creek

1. Skalkaho Creek supports westslope cutthroat trout (a Montana Species of Special Concern) and some bull trout (a Threatened Species under the federal Endangered Species Act. We recommend that this subdivision have a 100-foot "no build setback" along *each* side of Skalkaho Creek, outward from the high-water marks. Within the first 50-feet from the creek (high-water mark) we recommend a buffer zone with more restrictions, allowing only weed control, footpaths (i.e., non-motorized activities) and no riparian vegetation disturbance.

2. We recommend requiring riparian covenants (enclosed) for this subdivision to control use of, and to protect, Skalkaho Creek and its riparian areas, in order to preserve the water quality and functionality of this natural stream, to protect and enhance the fisheries, and for protection of properties from eroding banks and possible flooding.
3. Does this land currently have water rights to Skalkaho Creek? If "yes," then will these water rights be used by the subdivision, and if so, for what purposes? Water rights have a specific beneficial use, and any current beneficial uses are likely for irrigation and/or stock water rights for agriculture. It would be erroneous to assume that these rights would be valid for other uses such as lawn and garden irrigation or fishponds. Presence or absence of water rights to Skalkaho Creek should probably be addressed in the covenants. If no water rights exist for--or are not being transferred to--the property, then the covenants should clearly state that water cannot be diverted from the stream for any use, and that residents should consult with the Montana Department of Natural Resources for questions on water rights.

Thank you for providing the opportunity for MFWP to comment on this subdivision. Please contact Sharon Rose (542-5540; shrose@mt.gov) at our office if you would like an electronic version of these comments and covenants.

Sincerely,

/s/ Mack Long

Mack Long
Regional Supervisor

ML/sr

Enclosure: Living with Wildlife covenants; Riparian covenants

C: Ravalli County Planning Department, Attn: Renee Van Hoven, 215 S. 4 St., Ste. F, Hamilton, MT 59840

Covenants for Gill minor subdivision, recommended by Montana Fish, Wildlife & Parks;
Missoula; May 30, 2006

Section __: Living with Wildlife

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, black bear, mountain lion, coyote, fox, raccoon, skunk, and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

1. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
2. **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because rotting vegetable material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
3. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, and dogs. If stored indoors, it is best not to set garbage cans out until the morning of garbage pickup and to bring the cans in before that evening.
4. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.

5. **Birdseed** is an attractant to bears. If used, bird feeders should: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
6. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
7. **Pet food and/or livestock feed** should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets and/or livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
8. **Barbecue grills** should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
9. **Wildlife-friendly fence guidelines.** a) For wooden rail fences: no more than 3 rails, with the bottom of the bottom rail at least 18" off the ground; top of the top rail no higher than 42" off the ground; b) For wire fences: use smooth wire, no more than 3 wires, top wire no higher than 42" off the ground and bottom wire at least 18" from the ground. These designs allow calf elk, fawn deer and other wildlife to crawl under the fencing, while allowing adult elk and deer to jump the fence without becoming entangled or injuring themselves.
10. **Compost piles** can attract skunks and bears. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)
11. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, please consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
12. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (county commissioners).

Section __: Riparian Area Use for Skalkaho Creek

Healthy, naturally functioning riparian areas benefit fish and wildlife, as well as agriculture and recreation. The goal of the "no build setbacks" and the "no build/alteration buffer zones" along Skalkaho Creek is to protect the stream and its associated riparian area. The following covenants (restrictions) are designed to help avoid damage to Skalkaho Creek and its riparian areas, as well as possibly enhancing the stream area.

On each side of Skalkaho Creek is a 100-foot "*no-build setback*" (zone) from the *high-water mark*. The first 50-feet outward from the creek's high water mark is additionally designated as a "*no-build/alteration buffer zone*." The following restrictions apply to the buffer zones and/or the entire 100-foot no-build setbacks, as listed:

1. No building, no new roads or alteration is allowed in the 50-foot buffer zones. Additionally, no buildings are allowed in the entire 100-foot no-build setback zones.
2. Only non-motorized access and use of the buffer zones is allowed (except for certain maintenance needs such as weed spraying).
3. Keep livestock out of Skalkaho Creek and its buffer zones. Develop off-stream watering facilities (e.g., water troughs) for livestock, and use fences if necessary to keep livestock from trampling and grazing riparian vegetation. (See later covenant for wildlife friendly fence guidelines.)
4. Development of off-channel watering facilities cannot include water from Skalkaho Creek if the lot(s) does not have valid water rights to the stream. If no water rights exist for, or have not been transferred to the property, then water cannot be diverted from the creek for any use. Residents should consult with the Montana Department of Natural Resources for questions on water rights.
5. Wildlife-friendly fence guidelines. a) For wooden rail fences: no more than 3 rails, with the bottom of the bottom rail at least 18" off the ground; top of the top rail no higher than 42" off the ground; b) For wire fences: use smooth wire, no more than 3 wires, top wire no higher than 42" off the ground and bottom wire at least 18" from the ground. These designs allow calf elk, fawn deer and other wildlife to crawl under the fencing, while allowing adult elk and deer to jump the fence.
6. Do not plant lawns in the buffer zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
7. If planting is planned for the buffer zone, the goal should be to re-establish native plant species (grass, forbs, shrubs and/or trees) appropriate to the site.
8. It is illegal to modify the streambed or streambanks of a perennial stream without a "310" permit (Montana Natural Streambed and Land Preservation Act). Any stream crossings need to follow any and all local and/or state regulations relative to bridge/culvert construction materials/methods. Certain other actions near Skalkaho Creek may require

state and/or federal permit(s). Contact the Bitterroot Conservation District office in Hamilton for further information.

9. In summary, allow riparian areas--the creek and its buffer zones--to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
10. These riparian covenants cannot be altered or eliminated without consent of the governing body (county commissioners).

SUBDIVISION APPLICATION PACKET CHECKLIST - Water and Sanitation Information Per MCA 76-3-622Name of Subdivision: GILL SUBDIVISIONSubdivider/Landowner Name(s): GARY GILLConsultant Name: BR ENG.Date Received: 5/16-06

Sufficiency Review Due Date:

Yes	No	N/A	Item	Additional Information/Staff comments
-----	----	-----	------	---------------------------------------

(1) Unless the land division is excluded from review under 76-4-125(2), the subdivider shall submit to the information listed below for proposed subdivisions that will include new water supply or wastewater facilities.

<input checked="" type="checkbox"/>			Provide two copies of the following information with a check paid to RCEHD for their \$50.00 sufficiency review fee.	
<input checked="" type="checkbox"/>			(a) Vicinity Map or Plan	
<input checked="" type="checkbox"/>			(i) The location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:	
<input checked="" type="checkbox"/>			(A) flood plains	
<input checked="" type="checkbox"/>			(B) surface water features	
<input checked="" type="checkbox"/>			(C) springs	
<input checked="" type="checkbox"/>			(D) irrigation ditches	
<input checked="" type="checkbox"/>			(E) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater treatment systems	
<input checked="" type="checkbox"/>			(F) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g);	
<input checked="" type="checkbox"/>			(G) the representative drainfield site used for the soil profile description as required under subsection (1)(d)	
<input checked="" type="checkbox"/>			(ii) The location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities	
<input checked="" type="checkbox"/>			(b) A description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by DEQ.	
<input checked="" type="checkbox"/>			(c) A drawing of the conceptual lot layout at a scale no smaller than 1" = 200' that shows all information required for a lot layout document in rules adopted by the DEQ pursuant to 76-4-104.	

RECEIVED**MAY 16 2006**10-06-05-762
Ravalli County Planning Dept.

Yes	No	N/A	Item	Additional Information/Staff comments
/			(d) Evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:	
/			(i) A soil profile description from a representative drainfield site identified on the vicinity map, as provided in subsection (1)(a)(i)(G), that complies with standards published by DEQ.	
/			(ii) Demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer.	
/			(iii) In cases in which the soil profile or other information indicates that ground water is within 7 feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance provided in subsection (1)(d)(ii);	
/			(e) For new water supply systems, unless cisterns are proposed, evidence of adequate water availability:	
/			(i) obtained from well logs or testing of onsite or nearby wells;	
/			(ii) obtained from information contained in published hydrogeological reports; <u>OR</u>	
/			(iii) as otherwise specified by rules adopted by DEQ pursuant to 76-4-104;	
/			(f) Evidence of sufficient water quality in accordance with rules adopted by DEQ pursuant to 76-4-104;	
/			(g) A preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant changes in water quality.	The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this subsection (1)(g), the subdivider may perform a complete nondegradation analysis in the same manner as is required for an application that is reviewed under Title 76, chapter 4.

EC-07-02-1164
Ravalli County Planning Dept.

Hamilton Rural Fire DISTRICT

Post Office Box 1994 Hamilton, MT 59840

February 7, 2007

Tristan Riddell
Ravalli County Planning Department
215 S. 4th Street, Suite F
Hamilton, MT 59840

RE: Agency comment on Gill Subdivision

The Hamilton Rural Fire District and the City of Hamilton Fire Chief have reviewed the subdivision proposal, based on the January 31, 2007 information received from Tristan Riddell, in regards to the District's ability to provide fire protection services.


To mitigate the impact of the subdivision on the Hamilton Rural Fire District's ability to provide fire protection services, and in keeping with our Fire Protection Standards, we request that:

- 1) All buildings are built to IRBC code, and
- 2) All roads within the subdivision are constructed to County standards without any variances.

If the subdivision is designed to the Fire Protection Standards of the Hamilton Rural Fire District we find no negative effects to the provision of adequate fire service protection to the subdivision.

The Hamilton Rural Fire District's approval is subject to reconsideration or withdrawal if there are other variances, if the information provided is incomplete in any way, or if there are modifications to the proposal that alter the level of fire service protection required or the ability of the Hamilton Rural Fire District to provide adequate fire service protection.

Sincerely,



Lisa Wade
Secretary

EXHIBIT B

FEB 20 2007
IC-07-02-207
Ravalli County Planning Dept.

Dear Board of County Commissioners

I have lived across from the proposed lots for over five years now. In that five years I have watched too many deer to count run, play, eat and drink from the Gill's property. I have even many times seen eagle's in the trees. I realize this valley is growing and every time I turn around I see new subdivisions going in. I also realize this is only two houses. But why ruin a beautiful well vegetated piece of land. I believe disturbing this piece of land would have a great effect on the natural environment, the wild life and the wild life habitat. Why buy such a beautiful well vegetated piece of property with bad intensions. I don't know if the planning department has actually seen this piece of property so I have enclosed a picture. So the board can see why some people would rather let the wild life stay and continue to look at a beautiful surrounding.

Thank you for your time

Melissa Broad